Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
Consultants in Pain Medicine

Respondent Name
Mitsui Sumitomo Insurance USA

MFDR Tracking Number
M4-15-1256-01

Carrier's Austin Representative
Box Number 19

MFDR Date Received
December 23, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The 28 TAC Rule134.203 medical Fee Guidelines for Professional Services established the Medicare payment policies for coding, billing, reporting and reimbursement. We submitted proof that the Centers of Medicare and Medicaid services reimburses physician for these services, no modifier are needed, and that the services are pair separately."

Amount in Dispute: $130.34

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Subject to further review, the carrier asserts that it has paid according to applicable fee guidelines and challenges whether the disputed charges are consistent with applicable fee guidelines."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 12, 2014	82570, 82646, 82649, 83925, 83986	$130.34	$130.34

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - 4 – required modifier missing or inconsistent w/proced
   - RP3 – CMS statutory exclusion/svc not paid to physicians

Issues

1. Did the requestor submit the medical bill for the disputed services within Division guidelines?

2. What is the applicable rule that pertains to reimbursement?
3. Is the requestor entitled to reimbursement?

Findings

1. The carrier denied the disputed services as, 4 – "Required modifier missing or inconsistent w/procedure." 28 Texas Labor Code §134.203 (b) states in pertinent part, "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers;…" Review of the submitted documentation finds;
    a. Codes submitted are defined as clinical laboratory services
    b. CLIA found at http://wwwn.cdc.gov/clia/Resources/LabSerach.aspx finds the requestor is listed as, "Physician Office" with a Certificate type of "Accreditation".

    The Medicare Claims Processing Manual, Chapter 16, states in pertinent part, 70.8 - Effective September 1, 1992, all laboratory testing sites (except as provided in 42 CFR 493.3(b)) must have either a CLIA certificate of waiver, certificate for provider-performed microscopy procedures, certificate of registration, certificate of compliance, or certificate of accreditation to legally perform clinical laboratory testing on specimens from individuals in the United States. The Food and Drug Administration approves CLIA waived tests on a flow basis. The CMS identifies CLIA waived tests by providing an updated list of waived tests to the Medicare contractors on a quarterly basis via a Recurring Update Notification. To be recognized as a waived test, some CLIA waived tests have unique HCPCS procedure codes and some must have a QW modifier included with the HCPCS code. For a list of specific HCPCS codes subject to CLIA see http://www.cms.hhs.gov/CLIA/downloads/waivetbl.pdf." Review of this list finds submitted code 82570 and 83986 are considered "Waived" tests and require the QW modifier unless the laboratory submits support that the type test performed under these codes were not the "waived" tests but rather ones performed based on their laboratory practice. No documentation was found to support the services in dispute were a non-waived test. The Carrier's denial is supported.

2. The Carrier denied the remaining codes in dispute (82646, 82649, and 83925) as above and also as RP3 – "CMS statutory exclusion/svc not paid to physicians." Per Medicare Claims Processing Manual, Chapter 16, Transmittal 10 states in pertinent part, "Diagnostic X-ray, laboratory, and other diagnostic tests, including materials and the services of technicians, are covered under the Medicare program. Some clinical laboratory procedures or tests require Food and Drug Administration (FDA) approval before coverage is provided. A diagnostic laboratory test is considered a laboratory service for billing purposes, regardless of whether it is performed in: A physician's office, by an independent laboratory;" The Carriers' denial is not supported as there is no CMS exclusion, and this provider of service has obtained the necessary CLIA certificate to be able to perform the services in dispute. These services will be calculated per applicable rules and fee guidelines.

3. 28 Texas Administrative Code 134.203(e) states in pertinent part, "The MAR for pathology and laboratory services not addressed in subsection (c)(1) of this section or in other Division rules shall be determined as follows: (1) 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule…"

Date of Service	Submitted Code	Units	Billed amount	Maximum allowable reimbursement (MAR)
August 12, 2014	82646	1	$45.00	$28.17 X 125% = $35.21
August 12, 2014	82649	1	$45.00	$35.07 X 125% = $43.84
August 12, 2014	83925	1	$45.00	$26.54 X 125% = $33.18
August 12, 2014	83925	1	$45.00	$26.54 X 125% = $33.18
August 12, 2014	82570	1	$40.00	N/A required modifier not submitted with claim
August 12, 2014	83986	1	$40.00	N/A required modifier not submitted with claim
			$660.00	$145.41

4. The total allowable reimbursement for the services in dispute is $145.41. The carrier previously paid $0.00. The requestor is seeking $130.34. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $ 130.34.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $130.34 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

		April 29, 2015
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.